



Department of Justice

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JUSTICE DEPARTMENT WILL NOT OPPOSE PROPOSAL BY STANDARD-SETTING ORGANIZATION ON DISCLOSURE AND LICENSING OF PATENTS

WASHINGTON — The Department of Justice announced today that it will not oppose a proposal by the VMEbus International Trade Association (VITA) to implement a policy on the disclosure and licensing of patents. The policy requires the disclosure of essential patents, commitments to license essential patent claims on fair, reasonable, and non-discriminatory terms, and declarations of the most restrictive licensing terms that patent holders will require. The Department said that the proposed policy will enable VITA to make better informed decisions and thereby formulate standards that will benefit consumers.

The Department's position was stated in a business review letter from Thomas O. Barnett, Assistant Attorney General in charge of the Department's Antitrust Division, to counsel for VITA and its standards development subcommittee, VITA Standards Organization (VSO). VSO is a non-profit organization that develops and promotes standards for VMEbus computer architecture, i.e., robust pathways through which information travels within a computer system. VMEbus systems are found in a wide range of products, including ultrasound and magnetic resonance imaging machines, semiconductor manufacturing equipment, industrial control equipment, and advanced avionics and radar systems.

VITA requested a business review letter from the Antitrust Division expressing its enforcement intentions regarding a proposed patent policy that will impose two requirements on holders of essential patents who participate in VSO standard-setting activities. First, the policy requires that patent holders make early disclosures of patents and patent applications that may be essential to implementing VITA standards once they are adopted. Second, the policy requires that patent holders declare the maximum royalty rate and most restrictive non-price licensing terms they will require from those who must take a patent license in order to implement the eventual VITA standard. These declarations are irrevocable, but patent holders may submit subsequent declarations with less restrictive licensing terms.

Barnett said in the letter that the proposed licensing policy "should preserve, not restrict, competition among patent holders." Requiring the disclosure of a patent holder's most restrictive licensing terms increases competition by enabling VSO to choose between technologies based not only on technical terms, but also licensing terms.

Under the Department's Business Review Procedure, an organization may submit a

proposed action to the Antitrust Division and receive a statement as to whether the Division will challenge the action under the antitrust laws.

A file containing the business review request and the Department's response may be examined in the Antitrust Documents Group of the Antitrust Division, U.S. Department of Justice, Suite 215, Liberty Place, 325 7th Street, N.W., Washington, D.C. 20530. After a 30-day waiting period, the documents supporting the business review will be added to the file, unless a basis for their exclusion for reasons of confidentiality has been established pursuant to Paragraph 10(c) of the Business Review Procedure, 28 C.F.R. § 50.6.

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